

TIGARD MUNICIPAL CODE

Chapter 7.70 SECONDHAND DEALERS AND TRANSIENT MERCHANTS.

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7.70.010 Purpose.

The purpose of this chapter is to provide strict regulation of certain business activities that the Council finds present an extraordinary risk of being used as a means of concealing criminal behavior involving the theft of property. This risk is present despite the best efforts of legitimate dealers because of the large volume of goods and materials that are processed in such businesses. Therefore, this chapter is intended to reduce this type of criminal activity by providing more timely police awareness of such business transactions. The Council finds that the regulations provided herein are necessary and the need for the regulations outweighs any anticompetitive effect that may result from their adoption. (Ord. 83-26 §1, 1983).

7.70.020 Definitions.

1. "Antique" means any item of property that is possessed or valued because of its character, craft, style, rarity, and association with

an earlier period of time, and which is purchased from any persons in any one day for more than fifty dollars by an antique dealer. As herein defined, antique does not include vehicles and components.

2. "Antique dealer" means any person engaged in, conducting, managing or carrying on a business primarily or incidentally for the purpose of purchasing antiques from any person not representing a business which is required to be issued a business tax receipt or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the dealer's place of business.

3. "Chief" means the Chief of Police of the City of Tigard, Oregon, or the designee of the Chief.

4. "Person" means any real person, partnership, association or corporation.

5. "Precious metal and gem dealer" means any person engaged in, conducting, managing or carrying on a business primarily or incidentally for the purpose of purchasing precious metals or gems from any person not representing a business which is required to be issued a business tax receipt or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the dealer's place of business.

6. "Precious metal or gem" means any metal or gem that is valued for its character, rarity, beauty or quality, including gold, silver, platinum, diamonds, rubies, emeralds, sapphires and pearls, and any other such gems, whether as a separate item or in combination as a piece of jewelry; but excluding the following items when purchased by a business which is required to be issued a business tax receipt or special certificate under Chapter 5.04 of the Tigard Municipal Code for investment purposes:

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- a. Gold bullion bars (0.995 fine or better);
- b. Silver bullion bars (0.995 fine or better);
- c. All coins, whether actual currency or commemorative, from all countries.

As used in this section, the term "for investment purposes" means that the business purchases such items and retains them, in the same form as they were purchased, for resale to persons who likewise purchase such items and retain them in the same form.

7. "Purchase" means to transfer property for valuable consideration to any dealer regulated by this chapter, from any person not representing a business which is required to be issued a business tax receipt or special certificate under Chapter 5.04 of the Tigard Municipal Code. Purchase does not include a consignment of property for resale.

8. "Scrap metal" means the following used, worn out, or discarded nonferrous metals: brass, copper, lead, aluminum, titanium, zirconium, tungsten and nickel. It does not include items that contain both ferrous and nonferrous metals.

9. "Scrap metal dealer" means any person engaged in, conducting, managing or carrying on a business primarily or incidentally for the purpose of purchasing scrap metal from any person not representing a business which is required to be issued a business tax receipt or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the dealer's place of business.

10. "Secondhand dealer" means any person engaged in, conducting, managing or carrying on a business primarily or incidentally for the purpose of purchasing:

- a. Televisions;
- b. Hi-fi stereos, radios, tape recorders, or players;
- c. Amplifiers, video recording equipment and accessories;
- d. Cameras, projectors and accessories;
- e. Tools;
- f. Office equipment including typewriters, calculators, recorders, transcribers and computers;
- g. Guns and equipment;
- h. Sewing machines;
- i. Jewelry;
- j. Clocks and watches;
- k. Silverware;
- l. Air conditioners;
- m. Electronic testing, regulating and repair equipment;
- n. Citizens band and walkie-talkie equipment;
- o. Microwave ovens;
- p. Telephones;
- q. Bicycles and bicycle parts;
- r. Motorcycle and motorcycle parts;
- s. Items of a similar nature, from any

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person not representing a business which is required to be issued a business tax receipt or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the dealer's place of business.

11. "Transient merchant" means any person:

a. Engaged in the business of purchasing precious metals or gems in the City;

b. Engaged as an itinerant business or temporary business under the provisions of the Tigard Municipal Code Chapter 5.04; and

c. Engaging in the business of purchasing such precious metals or gems from any person not representing a business which is required to be issued a business tax receipt or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the dealer's place of business. (Ord. 83-26 §1, 1983).

7.70.030 Special License Required.

1. It is unlawful to operate as an antique, precious metal or gem, scrap metal, secondhand dealer, or transient merchant without first obtaining a special license. Such special license shall be required in addition to a business tax receipt or special certificate which is required under Chapter 5.04 of the Tigard Municipal Code, or any other City license or permit.

2. Application for such license shall be made upon standard forms issued and kept by the Chief. Upon application for a special license, the Chief may issue an appropriate temporary license to be valid for the period of time stated on its face, said period of time not to exceed thirty days. The application or a copy thereof shall be referred to the Chief for investigation prior to issuance of a permanent special license. If it appears from such investigation, or otherwise, that a permanent

special license should not be issued to the applicant, the Chief shall notify the City Council to that effect and shall set forth the reasons why the applicant should be denied a special license. A copy of the report of the Chief shall be provided to the applicant. The applicant may appeal the determination of the Chief to the City Council. A decision by the City Council to grant or deny a permanent special license may be reviewed further in accordance with ORS 34.010 to 34.100.

3. The following shall be grounds for denial of the issuance of a temporary or permanent special license by the Chief and City Council:

a. Conviction of a crime involving moral turpitude; or

b. Evidence that the applicant has not complied with similar ordinances or laws in other jurisdictions; or

c. Noncompliance of the business or applicant with state and local laws; or

d. Misrepresentation of information in the application.

4. The fee for such special licenses issued pursuant to this ordinance shall be set by resolution of the City Council. Every special license issued shall expire on January 15th of each year and shall be renewed upon payment of the fee, unless not renewed for the grounds listed in Section 7.70.110.2 of this chapter. (Ord. 83-26 §3, 1983).

7.70.040 License To Be Conspicuously Posted.

Every transient merchant shall possess and shall post in a conspicuous manner at any place where the merchant is engaging in business, the special license required by this chapter. (Ord. 83-

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26 §10, 1983).

7.70.050 Surety Bond Required.

No person shall engage in business as a transient merchant until such person has filed with the City Recorder of the City of a ten thousand dollar bond, with a surety company licensed to do business in the state of Oregon as surety, for the benefit of any person damaged by false, fraudulent, or misleading representations of the transient merchant in the conduct of his business. (Ord. 83-26 §8, 1983).

7.70.060 Record Forms.

1. The Chief shall provide a form for recording items purchased by antique dealers, precious metal or gem dealers, scrap metal dealers, secondhand (dealers, and transient merchants from any person not representing a business which is required to be issued a business tax receipt or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the dealer's place of business. In lieu of using forms provided by the Chief, the dealers may use their own forms if such forms have been approved by the Chief. The form provided for herein shall be of such size, shape and color and shall require such information relating to the regulations of this chapter as the Chief may direct.

2. The description of such articles so purchased shall be indicated as required by the form. The dealer shall fill in all of the blank spaces on such form with such data as is required by the form, and require the person undertaking transactions regulated by this ordinance to sign such form. Such form shall be filled out in clearly legible printing.

3. Transactions regulated pursuant to this chapter shall only be undertaken by the dealer after the seller has presented proper identification.

Identification shall consist of two pieces, one of which must confirm the person's full name and date of birth. The type of identification used, such as driver's license, along with its number, shall be listed on the form.

4. Because the information that is required to be furnished pursuant to this section to aid in investigation of the theft of property is of a confidential nature and related to the personal privacy of persons doing business with dealers regulated by this chapter, as well as certain trade secrets and practices of such dealers, such information shall be considered to be confidential and privileged from disclosure to the maximum extent possible under applicable laws, especially ORS 192.500(2)(c).

5. The dealer's copy of all required forms shall be retained for a period of not less than one year.

6. Every person regulated by the provisions of this chapter shall mail or deliver to the Chief, at the close of each business day, all required forms or legible copies thereof, describing articles purchased during that business day.

7. The Chief may apply the requirements of Sections 7.70.060 through 7.70.090 of this chapter to some or all classes of transactions otherwise regulated by this chapter, including dealers who possess City business tax receipts or special certificates under Chapter 5.04 of the Tigard Municipal Code. Such requirement shall only be applied upon general notice and an opportunity to be heard. (Ord. 83-26 §4, 1983).

7.70.070 Property Sales.

1. No property purchased by any antique dealer, precious metal or gem dealer, secondhand dealers, or transient merchant, as regulated by this chapter, shall be sold less than fifteen days after

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purchase. Such property shall be maintained in substantially the same form as purchased and shall not be commingled so as to preclude identification during such fifteen-day holding period. Notwithstanding this requirement, the Chief may authorize, in cases where it is shown that extreme financial hardship will result from holding an item for fifteen days, the sale or transfer of such item before the expiration of such period.

2. All such precious metals or gems so purchased by a property licensed transient merchant shall be kept during this entire fifteen-day period, in a safe deposit box, or its equivalent, at a bank, savings and loan association, other financial institution approved by the Chief, within the corporate limits of the City. The expenses of such storage shall be borne by the merchant. Upon placement of such precious metals or gems in such safe deposit box, the transient merchant shall, before the end of that business day in which the items were so placed, mail or deliver written notice to the Chief of the locations where such items are being kept during this fifteen-day period.

3. Whenever the Chief, upon reasonable belief that the specific property is the subject of theft, notifies in writing any antique dealer, precious metal or gem dealer, scrap metal dealer, secondhand dealer, or transient merchant not to dispose of any specifically described property purchased, the property shall be retained in substantially the same form and shall not be sold, exchanged, dismantled, or otherwise disposed of for a period of time not to exceed thirty days, as determined by the Chief. (Ord. 83-26 §5, 1983).

7.70.080 Articles To Be Tagged.

Any antique dealer, precious metal or gem dealer, secondhand dealer, or transient merchant purchasing any article in the business regulated by this chapter from any person not representing a business which is required to be issued a business

tax receipt or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the dealer's place of business, shall affix to the articles a tag upon which shall be written a number in legible characters, which number shall correspond to the number on the record forms required to be kept under Section 7.70.060 of this chapter. (Ord. 83-26 §6, 1983).

7.70.090 Inspection Of Articles And Records.

All persons specially licensed by this chapter to do business as an antique dealer, precious metal or gem dealer, scrap metal dealer, secondhand dealer, or transient merchant, and any person employed by such dealer, shall permit the Chief, upon presentation of official identification to enter such business premises for the limited purpose of inspecting any articles purchased in the business regulated by this chapter, and records required to be maintained under the provisions of this chapter, to ensure compliance with the provisions of this chapter. Any such inspection shall only be undertaken during normal business hours, unless a search warrant is obtained. (Ord. 83-26 §7, 1983).

7.70.100 Advertising To Disclose License And Bond.

Every advertisement, notice, flier, commercial, pamphlet or other advertising device utilized within the City of Tigard to attract attention to the business location, presence, or arrival in the City of Tigard of a transient merchant shall contain the following statement, which shall be conspicuously noticeable to any person whose attention is attracted by such advertising device: "(name of merchant) has obtained a special business license and posted a surety bond, as required by the City of Tigard, Oregon." (Ord. 83-26 §9, 1983).

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7.70.110 Violation--Penalty.

1. A violation of this chapter shall be considered a Class B misdemeanor and shall be subject to the penalty set forth in Chapters 7.12 and 7.16 of the Tigard Municipal Code.

2. Failure to comply with any provision of this chapter shall be cause for revocation of the special license. The Chief may, for cause, including noncompliance with the provisions of this chapter or the grounds set forth in Section 7.70.030.3 of this chapter, recommend the revocation of any special license granted under this chapter. The recommendation, with reasons therefor, shall be made in writing to the City Council. Upon receipt of the written recommendation, the City Council shall call for a public hearing on the matter and notification of the affected licensee. Notice to the licensee shall be in writing and set forth the Chief's recommendations and reasons, and shall be provided at least ten days before the hearing. After such hearing, the City Council may revoke the license after making findings and reading conclusions in the matter. Any further review of the City Council decision shall be done in accordance with ORS 34.010 to 34.100. (Ord. 83-26 §11, 1983).■